

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	2:10-cv-02696-STA-tmp
v.)	
)	JURY TRIAL DEMANDED
NEW BREED LOGISTICS,)	
)	
Defendant.)	
)	

**DEFENDANT NEW BREED'S STATUS REPORT
ON PARTIES' MEET AND CONFER**

New Breed Logistics (Defendant or New Breed) submits this Status Report pursuant to the Court's November 15, 2011 Order (ECF No. 64).

Regarding Plaintiff's Motion to Compel (ECF No. 33), the Court ordered as follows:

Regarding discovery of New Breed's emails, the court ordered the parties to meet and confer on these issues by no later than December 15, 2011 and to file a joint status report with the court by no later than December 31, 2011.

(Order, ECF No. 64 p. 5.)

Regarding the issues relating to Sec. III.B.(two alleged videos), Sec. III.C. ("first day letters"), and Sec. III.E. (alleged email from James Calhoun to Carissa Woods) of EEOC's Motion for Spoliation Sanctions (ECF No. 27), the Court ordered the parties

to discuss these issues as part of their meet and confer obligations and to address the status of this dispute in the parties' joint status report.

(Order, ECF No. 64 p. 6.)

The parties conferred telephonically on December 6, 2011 for roughly one and a half hours. Present were Anica Conner, Matthew McCoy, and Kelley Thomas for the Commission and Jason Priebe and Ada Dolph for Defendant. The parties conferred telephonically again on December 13, 2011 for approximately thirty minutes. Present were Anica Conner and Matthew McCoy for the Commission and Jason Priebe and Delaine Smith (for a portion of the call) for the Defendant. The parties conferred telephonically again on December 15, 2011 for approximately 15 minutes. Present was Matthew McCoy for the Commission and Jason Priebe for Defendant. The Commission requested (and New Breed provided) information on some, but not all of the topics addressed by the Court's order. Additional telephonic and email discussions occurred, and additional and follow-up information was provided by New Breed, during the weeks of December 26 and January 2, but the Commission declined to have substantive discussions regarding the meet and confer after December 15.

The parties conferred regarding the subjects for, scope of, and language of a joint status report, but were unable to agree regarding same. New Breed did not read the Court's order to require or solicit additional briefing or argument at this time, but only to advise the Court of the status of any items that remain disputed for resolution by the Court. The Commission desired to submit agreed to and disputed facts, but the parties could not agree on same. New Breed is

uncertain which topics addressed in the Court's order of November 15, 2011 remain unresolved and/or will continue to be pursued by the Commission.

To the extent that the Commission pursues any of the items left open in the Court's November 15 order, Defendant requests permission to submit further briefing, including information relating to the parties' meet and confer discussions, prior to further hearing or ruling by the Court.

Respectfully Submitted,

/s/ Delaine R. Smith
Delaine R. Smith (TN BPR 15027)
Louis P. Britt III (TN BPR 5613)

FORD & HARRISON LLP
795 Ridge Lake Boulevard
Suite 300
Memphis, Tennessee 38120
Telephone: (901) 291-1500
Facsimile: (901) 291-1501

and

Gerald L. Pauling II
Christopher J. DeGroff
Rebecca S. Bromet
Ada W. Dolph

SEYFARTH SHAW LLP
131 S. Dearborn Street, Suite 2400
Chicago, IL 60603-5577

COUNSEL FOR DEFENDANT